

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wieland, 5,243,764 in view of Durr, 6,363,618. '764 discloses the claimed invention, including an engine powered portable tool comprising a working tool placed on a working tool carrier **32** clamped to a tool casing comprising at least a crankcase **27** characterized in that the working tool carrier is clamped to a protruding part **47** of the crankcase **50**; the protruding part **47** is provided with a surface that the work tool carrier is clamped to; the working tool carrier is clamped to the tool casing by one or more bolts **48** secured in the protruding part by related nuts;. '764 does not disclose the

crankcase made of a plastic material or material with low density, the component, made of a higher E-module than the material in the rest of the crankcase, embedded in the crankcase wall, the component having a protruding part provided with a surface that the work tool carrier is clamped to. '618, in a similar device, figures 1-3, and column 2, lines 29 through column 4, lines 44, teaches providing a component **7** in a crankcase wall, the component made of a metal composition, inherently having a higher E-module than the material in the rest of the crankcase, made of a low density material, and the component is shaped and placed so that a section **34** of the component is not covered by the material that the rest of the crankcase is made of so that the section is a part of the surface that the working tool carrier aligns; part **34** being the protruding part that has a surface that a tool carrier (here the cylinder is attached to, and carries the tool) and the component is placed in such a way in the crankcase that at least one of the screws **11** that keep the different parts of the crankcase together also extend through the component. Because both references teach a housing for a portable tool, it would have been obvious to one of ordinary skill to substitute the crankcase of low density material with a metal composition insert to achieve the predictable result of providing a portable tool having a crankcase of lighter weight, higher strength, and less overall height.

### ***Response to Arguments***

1. Applicant's arguments filed 03 March 2008 have been fully considered but they are not persuasive. Applicant argues that the examiner did not consider the amendment filed 20 September 2007, in that the examiner did not consider the new language "the working tool carrier is clamped to a protruding part of a component embedded in the

crankcase". The examiner did consider this language, but it was not reflected in the Office action. Any confusion is regretted, and this action is made non-final to allow applicant fair opportunity to respond to the above rejection.

2. It is the examiner's position that Wieland as modified by Durr teaches applicant's claimed invention. It is noted that applicant has not provided structural limitations that would define the tool carrier, or the section of the crankcase that has the embedded metal reinforcement. As broadly claimed, Durr teaches providing a metal reinforcement, that is clamped to the cylinder that carries the tool, and can be considered a "tool carrier" as broadly claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). If applicant has disclosed structure that would further define the carrier and its connection to the metal reinforcement, and that would further define the placement of the metal reinforcement relative to the crankcase, it should be claimed, as such would overcome the rejection based on Durr.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maurina Rachuba whose telephone number is 571 272 4493. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272 4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3723

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Rachuba/  
Primary Examiner, Art Unit 3723